

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JUDGE'S COPY <sup>copy</sup>

FILED  
HARRISBURG, PA

DEC 03 2001

MARY E. DIANDREA, CLERK  
PER ~~Deputy Clerk~~

CHARLES ISELEY

Plaintiff,

v.

W. Conway BUSHEY, et al,  
Defendants.

Civil Action No.  
1:00-CV-00577

MOTION TO DENY OR DELAY DEFENDANTS'  
PENDING MOTION FOR SUMMARY JUDGEMENT

Pursuant to Rule 56(f), FRCP, plaintiff respectfully requests the court to or at least delay defendants' pending motion until he is able to secure his legal material/evidence as noted in the accompanying Declaration in support of this motion.

When the facts and evidence/documents are in possession of the defendants a continuance of a summary judgment motion should be granted as a matter of course. Castlow v. US, 552 F.2d 560, 564 (3d Cir. 1977); Baker v. McNeil, 859 F.2d 124, 127 (9th Cir. 1988); Jackson v. Brownier, 789 F.2d 307, 312 (5th Cir. 1986); Salahuddin v. Coughlin, 993 F.2d 306, 309-10 (2d Cir. 1993); Klingele v. Eikenberry, 849 F.2d 409, 412-13 (9th Cir. 1988); USB v. Lee, 842 F.2d 1266, 1269 (11th Cir. 1988); Villante v. Dept., 786 F.2d 516, 521-23 (2d Cir. 1986).

Date: Nov. 28, 2001

Respectfully submitted  
Charles Iseley  
Charles Iseley  
Am-9320, 1100 Pike St.  
Huntingdon, PA 16654

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Defendants

MARIE D'ANDREA, CLERK  
Deputy Clerk

DECLARATION

I, Charles Iseley, hereby declare under the penalty of perjury that the following is true and correct to the best of my knowledge and information:

1. I have hepatitis C, diagnosed in 1998, which is a serious and debilitating disease which is killing me. My symptoms include nausea, vomiting, mental confusion, weight loss (approx. 35 pounds), severe chronic fatigue, weakness, abdominal pain, muscle pain, joint pain and migraine headaches. I am not permitted to receive any medical services for my condition or symptoms because, according to a recent "doctor" at the prison, hepatitis C is not a serious medical condition and medical services are a privilege and he is not in the business of doing favors for "niggers". I have been attempting to secure medical services for three years now. I also have chronic fatigue syndrome and arthritis which are also serious and debilitating medical conditions but I am not permitted medical services for them either.

2. On Oct. 30, 2001, I was transferred to the Special Assessment Unit (SAU) which, according to DC-MPM 007 (page 3) is "A special unit at SCI-Waymart designated to provide independent and initial treatment intervention to inmates whom, due to their mental illness, have demonstrated an inability to function successfully . . .", allegedly because I am mentally ill and suicidal.

3. I was stripped of everything and not allowed anything (including

legal material), had a shield on my door, was on 24 hour camera surveillance (camera in cell), had lights on 24 hours a day, under close monitoring, had all my asthma medication confiscated (even though you die without them) and regaled with derogatory epithets (e.g., Not, Crazy, mentally ill, looney tune, fruitcake, etc.) and denied religious visits from a reverend and was coerced into trying to take psychiatric medication (which I refused) ostensibly because I am mentally ill and suicidal.

4. However, I have never been mentally ill or suicidal in my life. The actions against me were in retaliation for my filing grievances and legal actions.

5. I am now back at Huntington state prison but all the legal material I require is in my property held by prison officials (i.e., Complaint, my exhibits, my documentary evidence, affidavits, legal research, etc.) and I cannot get access until allowed by prison officials who say to be patient cause the policy that allows me monthly access to legal material is new (policy in effect on Oct. 5, 2001, in response to my petition for Writ of Mandamus concerning publications: *Isely v. Beard* #353 M.D. 2001, Circuit Ct of Pa.). However, I am being transferred to another hole so there is no telling how many months it will be before I will finally be allowed access to my legal materials.

6. In addition, there is no law library here in the hole and we are not allowed to order books from the main law library. Maryanne Lewis died. A library was and is supposed to be built (there was one at every other prison I have been to) but there has been no indication when it will happen. I am not even allowed to Shepardize cases and have no access to legal research material regarding civil rights prison litigation (e.g., no digests for prisoners, convicts, etc.).

7. The prison officials also confiscated part of my exhibits (job descriptions) and refuse to answer any of my requests/questions concerning them.

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Charles Isely  
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CERTIFICATE OF SERVICE

I hereby certify that I caused to be served a copy of the foregoing Motion to Deny or Delay Defendants' motion for Summary Judgment and Declaration by mailing same to:

Maryanne Lewis, dag  
Office of Atty. Gen.  
15th Floor, Strawberry Sq.  
Harrisburg, PA 17120

Date: Nov. 28, 2001

Charles Iseley  
Charles Iseley